

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KATHY MORRIS,

Plaintiff(s),

v.

SUMMERLIN HOSPITAL MEDICAL
CENTER, LLC, et al.,

Defendant(s).

Case No. 2:14-CV-1834 JCM (PAL)

ORDER

Presently before the court is defendants Summerlin Hospital Medical Center, LLC (“Summerlin LLC”), Summerlin Hospital Medical Center, Limited Partnership (“Summerlin LP”), and Valley Health System, LLC’s (“Valley Health”) joint motion to dismiss parts of plaintiff’s complaint. (Doc. # 7). Plaintiff has not filed a response and the deadline to do so has passed.

Plaintiff’s response to defendants’ joint motion to dismiss was originally due by November 27, 2014. On November 25, 2014, the parties filed a stipulation allowing plaintiff additional time, until December 5, 2014, to file a response. (Doc. # 12). The court granted this stipulation, and allowed plaintiff until December 5, 2014 to respond. (Doc. # 13). Despite the extension, plaintiff has still failed to file a response.

This case involves an employment dispute. Plaintiff Kathy Morris is currently employed by defendant Summerlin LLC as a respiratory therapist. (*See* doc. # 7). Plaintiff commenced the action in the Eighth Judicial District Court of Clark County, Nevada on October 7, 2014, setting forth six claims for relief. (*See id.*). On November 3, 2014, defendant Summerlin LLC, removed the action to this court. (Doc. # 1). Defendants Summerlin LP, and Valley Health

1 consented to and joined in the removal. Defendants now jointly move to dismiss four of
2 plaintiff's claims for relief based on Federal Rule of Civil Procedure 12(b)(6). (*See id.*).

3 "To survive a motion to dismiss, a complaint must contain sufficient factual matter,
4 accepted as true, to 'state a claim for relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 129 S.
5 Ct. 1937, 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).
6 "Where a complaint pleads facts that are 'merely consistent' with a defendant's liability, it 'stops
7 short of the line between possibility and plausibility of entitlement to relief.'" *Id.* (citing *Bell*
8 *Atlantic*, 550 U.S. at 557). However, where there are well pled factual allegations, the court
9 should assume their veracity and determine if they give rise to relief. *Id.* at 1950.

10 Pursuant to Local Rule 7-2, an opposing party must file points and authorities in response
11 to a motion and failure to file a timely response constitutes the party's consent to the granting of
12 the motion and is proper grounds for dismissal. *See* LR IB 7-2(d); *United States v. Warren*, 601
13 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh
14 several factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's
15 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
16 favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions."
17 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d 1421,
18 1423 (9th Cir. 1986)).

19 In light of plaintiff's failure to respond and weighing the factors identified in *Ghazali*, the
20 court finds dismissal plaintiff's first, third, fourth, and sixth causes of action appropriate.

21 Accordingly,

22 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants Summerlin
23 LLC, Summerlin LP, and Valley Health's joint motion to dismiss parts of plaintiff's complaint
24 (doc. # 7) be, and the same hereby, is GRANTED.

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1 IT IS FURTHER ORDERED that plaintiff's first, third, fourth, and sixth causes of action
2 (*see* doc. # 1) be dismissed without prejudice.

3 DATED December 15, 2014.

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5 UNITED STATES DISTRICT JUDGE
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